

HURRELL CANTRALL LLP
725 S. FIGUEROA STREET, SUITE 3800
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 426-2000

1 DAWYN R. HARRISON, County Counsel
STARR COLEMAN, Assistant County Counsel
2 THOMAS R. PARKER, Senior Deputy County Counsel
(SBN 141835) • TParker@counsel.lacounty.gov
3 648 Kenneth Hahn Hall of Administration
500 West Temple Street
4 Los Angeles, California 90012-2713
Telephone: (213) 974-1834
5 Facsimile: (213) 613-4751

6 Thomas C. Hurrell, State Bar No. 119876
E-Mail: thurrell@hurrellcantrall.com
7 Jonathan Fang, State Bar No. 279106
E-Mail: jfang@hurrellcantrall.com
8 HURRELL CANTRALL LLP
725 S. Figueroa Street, Suite 3800
9 Los Angeles, California 90017
Telephone: (213) 426-2000
10 Facsimile: (213) 426-2020

11 Attorneys for Defendants, CLARK R. TAYLOR, AICP, THE LOS ANGELES
COUNTY DEPARTMENT OF REGIONAL PLANNING

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
15

16 CLINTON BROWN,

17 Plaintiff,

18 v.

19 CLARK R. TAYLOR, AICP, THE
LOS ANGELES COUNTY
20 DEPARTMENT OF REGIONAL
PLANNING,

21 Defendants.
22

Case No. 2:22-cv-09203-MEMF-KS

**SEPARATE STATEMENT OF
UNCONTROVERTED MATERIAL
FACTS IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

Judge: Hon. Karen L. Stevenson
Hearing: Vacated

Assigned to:
Hon. Maame Ewusi-Mensah Frimpong
Courtroom "8B"

Magistrate Judge Karen L. Stevenson
Courtroom "580"

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25 **TO PLAINTIFF, ALL PARTIES, THE HONORABLE COURT:**

26 Defendant Clark Taylor, in his official capacity for the Los Angeles County
27 Department of Regional Planning ("Defendant" or "County") hereby submits the
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following Separate Statement of Uncontroverted Material Facts in support of Defendant's Motion for Summary Judgment filed on October 18, 2023. (Dkt No. 82.) Through inadvertence, Defendant did not file his separate statement in the original filing on October 18, 2023. (Dkt No. 82.)

UNCONTROVERTED FACTS

<u>Uncontroverted Facts</u>	<u>Supporting Evidence</u>
1. Plaintiff Clinton Brown <u>does not</u> own the subject property of this lawsuit, "27250 Agoura Road" an unincorporated parcel of land whose Assessor Parcel Number ("APN") is 2064-005-011 described as "LOT 3 in TRACT NO. 33128" (hereinafter "Subject Property").	Request for Judicial Notice #1 in Support of Defendant's Motion for Summary Judgment ("RJN"), Quitclaim Grant Deed, recorded 02/01/22 Los Angeles County Official Record ("Record") #20220123442, Exhibit 1 ; RJN #2, Grant Deed dated 11/12/2020, recorded 12/18/2020, Record #20201688734, Exhibit 2 ; RJN #3, GIS-NET Public Results for 27250 Agoura Road dated October 16, 2023, Exhibit 3 ; RJN #4, the Atlas LLC Articles of Incorporation, Exhibit 4 .
2. The Atlas LLC, a California LLC and Steve Weera Tonasut, Trustee of the Tonasut Family Trust currently own the Subject Property "27250 Agoura Road" whose APN is 2064-005-011 and legally described as "LOT 3 in TRACT	RJN #1, Quitclaim Grant Deed, recorded 02/01/22 Record ##20220123442, Exhibit 1 ; RJN #4, the Atlas LLC Articles of Incorporation, Exhibit 4 .

1	NO. 33128."	
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3	3. On the date 10/12/2021 Plaintiff's	RJN #2, Grant Deed dated 11/12/2020,
4	solar farm application was denied,	recorded 12/18/2020, Record
5	the Subject Property was owned	#20201688734, Exhibit 2 ;
6	solely by the Atlas, LLC.	RJN #4, the Atlas LLC Articles of
7		Incorporation, Exhibit 4 ;
8		Complaint, pg. 4:21-23.
9	4. On December 21, 1987, the County	RJN #5, Tract No. 33128, recorded on
10	of Los Angeles approved the map	December 21, 1987, Record #87-
11	of Tract No. 33128 and accepted	2026009, Exhibit 5 .
12	the dedication from the prior	
13	landowners of the Subject Property	
14	for the "right to prohibit	
15	construction of residential and/or	
16	commercial structures within Lot 3	
17	of Tract 33128." This restriction is	
18	recorded on the official Tract Map	
19	33128 in Book 1099, Pages 94 TO	
20	97 through the Los Angeles County	
21	Official Record #87-2026009.	
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23	5. The dedication of the Subject	RJN #5, Tract No. 33128, recorded on
24	Property, Lot 3 in Tract No. 33128,	December 21, 1987, Record #87-
25	was pursuant to a subdivision and a	2026009, Exhibit 5 ;
26	development agreement dated	RJN, #6, Development Agreement,
27	November 29, 1984 between the	recorded on March 13, 1985, Record
28	prior landowners of the Subject	

1	Property and the County of Los	#85-277980, Exhibit 6.
2	Angeles.	
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4	6. On August 20, 2002, the County	RJN #2, Grant Deed dated 11/12/2020,
5	designated the Subject Property	recorded 12/18/2020, Record
6	through APN 2064-005-011 as an	#20201688734, Exhibit 2;
7	open space through Ordinance No.	RJN #3, GIS-NET Public Results for
8	2002-0062Z.	27250 Agoura Road dated October 16,
9		2023, Exhibit 3;
10		RJN #9, Ordinance No. 2002-0062Z,
11		Minutes of the Board of Supervisors of
12		County of Los Angeles on August 20,
13		2002 approving Ordinance No. 2002-
14		0062Z, Exhibit 9.
15	7. An open space designation means	RJN #10, Open Space Zone, Los
16	that the development of premises	Angeles County Code Section
17	on the Subject Property shall	22.16.060, Exhibit 10.
18	remain essentially unimproved and	
19	buildings, structures, grading	
20	excavation, fill or other alterations	
21	shall be prohibited except for the	
22	specified uses listed as permitted or	
23	conditionally permitted in Section	
24	22.16.030.C.	
25		
26	8. On November 12, 2020, at the time	RJN #3, GIS-NET Public Results for
27	Plaintiff purchased the Subject	27250 Agoura Road dated October 16,
28	Property, it was already designated	2023, Exhibit 3;

1 2 3 4 5 6 7	as a Significant Ecological Area ("SEA"). Plaintiff could have determined the property's SEA status through a website maintained by Regional Planning, known as "GIS-NET Public."	RJN #7, Los Angeles County Code Section 22.140.510.C.5.a, which prohibits installation of solar farms within SEA, accessed on October 16, 2023, Exhibit 7 .
8 9 10 11 12 13 14	9. The prohibition of installation of solar energy facilities within an SEA was first enacted in Ordinance 2016-0069, which was adopted on December 13, 2016 and took effect on January 12, 2017 in Section 22.52.1605.E.1.	RJN #8, Los Angeles County Code Section 22.52.1605.E.1 on June 25, 2018, which prohibits installation of solar farms within SEA, accessed on October 16, 2023, Exhibit 8 .
15 16 17 18 19 20 21 22 23 24 25 26 27 28	10. The Subject Property was transferred on November 12, 2020, on the date of the transfer, there was no cognizable property right to build a solar farm because of the open space zone designation of LOT 3 in TRACT NO. 33128 (Subject Property) which made development remain essentially unimproved and buildings and structures prohibited except for the specific uses that were permitted or conditionally permitted in the use	RJN #2, Grant Deed dated 11/12/2020, recorded 12/18/2020, Record #20201688734, Exhibit 2 ; RJN #5, Tract No. 33128, recorded on December 21, 1987, Record #87-2026009, Exhibit 5 ; RJN #9, Ordinance No. 2002-0062Z, Minutes of the Board of Supervisors of County of Los Angeles on August 20, 2002 approving Ordinance No. 2002-0062Z, Exhibit 9 RJN #10, Open Space Zone, Los Angeles County Code Section

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<p>regulations and the County retained discretion to grant or deny the benefit of building a residential and/or commercial structures on the Subject Property (LOT 3 in TRACT NO. 33128) per the 1987 recorded dedication.</p>	<p>22.16.060, Exhibit 10.</p>
<p>11. The Subject Property was transferred on November 12, 2020, on the date of the transfer, there was no cognizable property right to build a solar farm because the County of Los Angeles retained discretion to grant or deny the benefit of building a residential and/or commercial structures on the Subject Property (LOT 3 in TRACT NO. 33128) per the 1987 recorded dedication.</p>	<p>RJN #2, Grant Deed dated 11/12/2020, recorded 12/18/2020, Record #20201688734, Exhibit 2; RJN #5, Tract No. 33128, recorded on December 21, 1987, Record #87-2026009, Exhibit 5.</p>

HURRELL CANTRALL LLP
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LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 426-2000

1 DATED: October 19, 2023

Respectfully submitted,

2 HURRELL CANTRALL LLP

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4 By: /s/ Jonathan Fang
5 THOMAS C. HURRELL
6 JONATHAN FANG
7 Attorneys for Defendants, CLARK R.
8 TAYLOR, AICP, THE LOS ANGELES
9 COUNTY DEPARTMENT OF
10 REGIONAL PLANNING
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